THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION No. 17680 of 2006

Date 25-08-2006

Between:

Ganta Padmaraju.

..... PETITIONER

AND

The Govt. of Andhra Pradesh, Rep. by its Principal Secretary to Govt. Social Welfare Department, Secretariat Buildings, Hyderabad and others.

.....RESPONDENTS

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION No.17680 of 2006

O R D E R :

The writ petition is filed questioning the order of the first respondent dated 25-07-2006, whereunder the appeal preferred by the petitioner under section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes, & Back Ward Classes) Regulation of Issue of Community Certificates Act, 1993 (for short 'the Act') was rejected as barred by limitation.

The second respondent herein, the District Collector & Magistrate, East Godavari District, Kakinada, by order dated 01-05-2006, in exercise of the powers conferred under Section 5(1) of the Act, cancelled the caste certificate obtained by the petitioner holding that the said certificate was obtained by him fraudulently. Aggrieved by the same, the petitioner preferred an appeal before the first respondent on 20-06-2006. However, the first respondent while declining to entertain the said appeal passed the impugned order, which runs as under:

> "The appeal petition filed by Sri Ganta Padmaraju S/o Subbarao, has been examined by the Govt. and as per the Act 16 of 1993, the appeal has to be received within one month time from the date of publication of notification, whereas in this case the notification was published on 01-05-2006 and appeal was received in this office on 26-06-2006, after one month time and hence rejected."

I have heard the learned senior counsel appearing for the

petitioner and the learned Government Pleader for Social Welfare.

At the outset, it is to be noted that under Section 7(2) of the Act, against an order passed under Section 5, by the District Collector, an appeal lies to the Government within 30 days from the date of publication of the order in the Andhra Pradesh Gazette.

In the case on hand, the specific case of the petitioner is that the order dated 01-05-2006 passed by the second respondent has not yet been published in the gazette.

Nothing has been produced before this Court by the respondents to show that such publication was made as on today. In the circumstances, the appeal filed on 20-06-2006 was well within the limitation prescribed under sub-section (2) of Section 7 of the Act. The impugned order was passed obviously on an erroneous assumption that 30 days limitation prescribed under the Act runs from the date of the order itself. In the circumstances, the impugned order, which on the face of it is illegal and contrary to the statutory provisions, is hereby set aside.

Accordingly, the writ petition is allowed directing the first respondent to receive the appeal filed by the petitioner and decide the same in accordance with law. No order as to costs.

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25-08-2006

usd